

**MUSICK, PEELER & GARRETT LLP**

ATTORNEYS AT LAW  
120 MONTGOMERY STREET, SUITE 2550  
SAN FRANCISCO, CALIFORNIA 94104-4303  
TELEPHONE 415-281-2024  
FACSIMILE 415-281-2010

David A. Tartaglio (State Bar No. 117232)  
d.tartaglio@mpglaw.com  
Catherine M. Lee (State Bar No. 197197)  
c.lee@mpglaw.com

Attorneys for Defendants THE AMERICAN  
SOCIETY FOR REPRODUCTIVE  
MEDICINE and SOCIETY FOR ASSISTED  
REPRODUCTIVE TECHNOLOGY

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN JOSE DIVISION**

OPTIONS NATIONAL FERTILITY  
REGISTRY, a California Corporation, and  
JESSICA and class of plaintiffs believed to be  
similarly situated (women egg donors whose  
eggs were allegedly given to unknown and  
unauthorized recipients via "egg sharing"  
without their informed consent, in violation of  
an existing legally binding contract),

Plaintiffs,

vs.

THE AMERICAN SOCIETY FOR  
REPRODUCTIVE MEDICINE; SOCIETY  
FOR ASSISTED REPRODUCTIVE  
TECHNOLOGY; DOES 1 through 102  
(REGISTERED INFERTILITY  
PHYSICIANS) AND DOES 103 through 1500  
(FERTILITY CLINICS AND ASSOCIATED  
PROFESSIONAL DEFENDANTS),

Defendants.

Case No. C 07 5238 JF

Complaint Filed: October 12, 2007

**DECLARATION OF NANCY FRANKEL  
IN SUPPORT OF DEFENDANTS  
AMERICAN SOCIETY OF  
REPRODUCTIVE MEDICINE'S AND  
SOCIETY FOR ASSISTED  
REPRODUCTIVE TECHNOLOGY'S  
MOTION TO DISMISS PLAINTIFFS'  
COMPLAINT FOR LACK OF SUBJECT  
MATTER JURISDICTION (FRCP  
12(b)(1)) OR ALTERNATIVELY,  
MOTION TO DISMISS FIRST, SECOND,  
AND THIRD CAUSES OF ACTION FOR  
FAILURE TO STATE A CLAIM (FRCP  
12(b)(6)) and MOTION TO DISMISS  
CLASS CLAIMS (FRCP 12(b)(6)) OR  
STRIKE CLASS ALLEGATIONS (FRCP  
12(f))**

Date: July 11, 2008  
Time: 9:00 a.m.  
Ctrm.: 3

Trial Date: None.

585582.1

**FRANKEL DECL. -- DEFS. ASRM'S & SART'S MOT. TO DISMISS PLAINTIFFS' COMPLAINT FOR  
LACK OF SUBJECT MATTER JURIS OR ALT., MOT. TO DISMISS 1st, 2nd & 3rd C/A FOR FAILURE  
TO STATE A CLAIM and MOT. TO DISMISS CLASS CLAIMS OR STRIKE CLASS ALLEGATIONS**

1 I, Nancy Frankel, declare as follows.


2 1. I am the Chief Operating Officer of the American Society for Reproductive  
3 Medicine ("ASRM"), a defendant in this lawsuit.

4 2. I have been employed with ASRM since 2003. I have been in my current position  
5 since last year and previously served as ASRM's Director of Operations and Strategic  
6 Development. In both positions, I have responsibility to manage the staff of ASRM, oversee  
7 ASRM's operations, and maintain and update the company's corporate records.

8 3. From my positions at ASRM, I know that ASRM is incorporated in the State of  
9 California.

10 4. I have personal knowledge of the facts set forth herein and if called as a witness, I  
11 could and would competently testify thereto.

12 I declare under penalty of perjury under the laws of the United States of America that the  
13 foregoing is true and correct. Executed May 8, 2008, at Birmingham, Alabama.

14   
15 Nancy Frankel  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28